

(j) *Return of client's records.* (1) In general, an enrolled actuary must, at the request of a client, promptly return any and all records of the client that are necessary for the client to comply with his or her legal obligations. The enrolled actuary may retain copies of the records returned to a client. The existence of a dispute over fees generally does not relieve the enrolled actuary of his or her responsibility under this section. Nevertheless, if applicable state law allows or permits the retention of a client's records by an enrolled actuary in the case of a dispute over fees for services rendered, the enrolled actuary need only return those records that must be attached to the client's legally required forms. The enrolled actuary, however, must provide the client with reasonable access to review and copy any additional records of the client retained by the enrolled actuary under state law that are necessary for the client to comply with his or her legal obligations.

(2) For purposes of this section, *records of the client* include all documents or written or electronic materials provided to the enrolled actuary, or obtained by the enrolled actuary in the course of the enrolled actuary's representation of the client, that preexisted the retention of the enrolled actuary by the client. The term "records of the client" also includes materials that were prepared by the client or a third party (not including an employee or agent of the enrolled actuary) at any time and provided to the enrolled actuary with respect to the subject matter of the representation. The term "records of the client" also includes any return, claim for refund, schedule, affidavit, appraisal or any other document prepared by the enrolled actuary, or his or her employee or agent, that was presented to the client with respect to a prior representation if such document is necessary for the taxpayer to comply with his or her current legal obligations. The term "records of the client" does not include any return, claim for refund, schedule, affidavit, appraisal or any other document prepared by the enrolled actuary or the enrolled actuary's firm, employees or agents if the enrolled actuary is withholding such document pending the client's performance of its contractual obligation to pay fees with respect to such document.

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(m) The rules of this section apply to all actuarial services and related acts performed on or after the date these regulations are published as final regulations in the **Federal Register**.

Par. 10. Section 901.31 is amended by revising paragraphs (a) and (c) introductory text to read as follows:

§901.31 Grounds for suspension or termination of enrollment.

(a) *Failure to satisfy requirements for enrollment.* The enrollment of an actuary may be terminated if it is found that the actuary did not satisfy the eligibility requirements set forth in §901.11 or §901.12.

* * * * *

(c) *Disreputable conduct.* The enrollment of an actuary may be suspended or terminated if it is found that the actuary has, at any time after he/she applied for enrollment, engaged in any conduct set forth in §901.12(f) or other conduct evidencing fraud, dishonesty, or breach of trust. Such other conduct includes, but is not limited to, the following:

* * * * *

Par. 11. Section 901.32 is amended by revising the last sentence to read as follows:

§901.32 Receipt of information concerning enrolled actuaries.

* * * If any other person has information of any such violation, he/she may make a report thereof to the Executive Director.

Par. 12. Section 901.47 is amended by revising the last sentence to read as follows:

§901.47 Transcript.

* * * Copies of exhibits introduced at the hearing or at the taking of depositions will be supplied to parties upon the payment of a reasonable fee (31 U.S.C. 9701).

Par. 13. Section 901.72 is added to read as follows:

§901.72 Additional Rules.

The Joint Board may, in notice or other guidance of general applicability, provide

additional rules regarding the enrollment of actuaries.

Zenaida Samaniego,
Chairman, Joint Board for
the Enrollment of Actuaries.

(Filed by the Office of the Federal Register on September 18, 2009, 8:45 a.m., and published in the issue of the Federal Register for September 21, 2009, F.R. 48030)

Deletions From Cumulative List of Organizations Contributions to Which are Deductible Under Section 170 of the Code

Announcement 2009-80

The Internal Revenue Service has revoked its determination that the organizations listed below qualify as organizations described in sections 501(c)(3) and 170(c)(2) of the Internal Revenue Code of 1986.

Generally, the Service will not disallow deductions for contributions made to a listed organization on or before the date of announcement in the Internal Revenue Bulletin that an organization no longer qualifies. However, the Service is not precluded from disallowing a deduction for any contributions made after an organization ceases to qualify under section 170(c)(2) if the organization has not timely filed a suit for declaratory judgment under section 7428 and if the contributor (1) had knowledge of the revocation of the ruling or determination letter, (2) was aware that such revocation was imminent, or (3) was in part responsible for or was aware of the activities or omissions of the organization that brought about this revocation.

If on the other hand a suit for declaratory judgment has been timely filed, contributions from individuals and organizations described in section 170(c)(2) that are otherwise allowable will continue to be deductible. Protection under section 7428(c) would begin on November 16, 2009, and would end on the date the court first determines that the organization is not described in section 170(c)(2) as more particularly set forth in section 7428(c)(1). For individual contributors, the maximum

deduction protected is \$1,000, with a husband and wife treated as one contributor. This benefit is not extended to any individual, in whole or in part, for the acts or omissions of the organization that were the basis for revocation.

Elimidebt Management Systems, Inc.
Orlando, FL
Hallandale, FL

Richard & Jane Pater Charitable
Foundation
Salt Lake City, UT

Election of Reduced Research Credit Under Section 280C(c)(3); Hearing Cancellation

Announcement 2009-81

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document cancels a public hearing on proposed rulemaking (REG-130200-08, 2009-31 I.R.B. 174) that amends the regulations concerning taxpayers who make the election to claim the reduced research credit. The proposed regulations simplify how taxpayers make the election and affect taxpayers that claim the research credit.

DATES: The public hearing, originally scheduled for November 4, 2009, at 10 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT: Richard A. Hurst of the Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration), at *Richard.A.Hurst@irs.counsel.treas.gov*.

SUPPLEMENTARY INFORMATION: A notice of public hearing that appeared in the **Federal Register** on Thursday, July 16, 2009, announced that a public hearing was scheduled for November 4, 2009, at 10 a.m., in the auditorium, Internal Revenue

Building, 1111 Constitution Avenue, NW, Washington, DC. The subject of the public hearing is under section 280C of the Internal Revenue Code.

The public comment period for these regulations expired on October 14, 2009. Outlines of topics to be discussed at the hearing were due on October 16, 2009. The notice of proposed rulemaking and notice of public hearing instructed those interested in testifying at the public hearing to submit an outline of the topics to be addressed. As of Tuesday, October 20, 2009, the taxpayer, who wished to present oral comments, has requested to withdraw. Therefore, the public hearing scheduled for November 4, 2009, is cancelled.

LaNita Van Dyke,
*Chief, Publications and Regulations Branch,
Legal Processing Division,
Associate Chief Counsel
(Procedure and Administration).*

(Filed by the Office of the Federal Register on October 26, 2009, 8:45 a.m., and published in the issue of the Federal Register for October 27, 2009, 74 F.R. 55162)

Announcement of Disciplinary Sanctions From the Office of Professional Responsibility

Announcement 2009-83

The Office of Professional Responsibility (OPR) announces recent disciplinary sanctions involving attorneys, certified public accountants, enrolled agents, enrolled actuaries, enrolled retirement plan agents, and appraisers. These individuals are subject to the regulations governing practice before the Internal Revenue Service (IRS), which are set out in Title 31, Code of Federal Regulations, Part 10, and which are published in pamphlet form as Treasury Department Circular No. 230. The regulations prescribe the duties and restrictions relating to such practice and prescribe the disciplinary sanctions for violating the regulations.

The disciplinary sanctions to be imposed for violation of the regulations are:

Disbarred from practice before the IRS—An individual who is disbarred is not eligible to represent taxpayers before the IRS.

Suspended from practice before the IRS—An individual who is suspended is not eligible to represent taxpayers before the IRS during the term of the suspension.

Censured in practice before the IRS—Censure is a public reprimand. Unlike disbarment or suspension, censure does not affect an individual's eligibility to represent taxpayers before the IRS, but OPR may subject the individual's future representations to conditions designed to promote high standards of conduct.

Monetary penalty—A monetary penalty may be imposed on an individual who engages in conduct subject to sanction or on an employer, firm, or entity if the individual was acting on its behalf and if it knew, or reasonably should have known, of the individual's conduct.

Disqualification of appraiser—An appraiser who is disqualified is barred from presenting evidence or testimony in

any administrative proceeding before the Department of the Treasury or the IRS.

Under the regulations, attorneys, certified public accountants, enrolled agents, enrolled actuaries, and enrolled retirement plan agents may not assist, or accept assistance from, individuals who are suspended or disbarred with respect to matters constituting practice (*i.e.*, representation) before the IRS, and they may not aid or abet suspended or disbarred individuals to practice before the IRS.

Disciplinary sanctions are described in these terms:

Disbarred by decision after hearing, Suspended by decision after hearing, Censured by decision after hearing, Monetary penalty imposed after hearing, and Disqualified after hearing—An administrative law judge (ALJ) conducted an evidentiary hearing upon OPR's complaint alleging violation of the regulations